

UNITED STATES TAX COURT
WASHINGTON, DC 20217

| | | |
|-----------------------------------|---|----------------------|
| CLOVUS M. SYKES, |) | SD |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Docket No. 24394-15. |
| |) | |
| COMMISSIONER OF INTERNAL REVENUE, |) | |
| |) | |
| Respondent |) | |

ORDER OF DISMISSAL AND DECISION

In a notice of deficiency dated June 22, 2015, respondent determined that petitioner is liable for a Federal income tax deficiency of \$25,886 for the taxable year 2012 and additions to tax under sections 6651(a)(1) and (2), and 6654(a).¹ The deficiency is attributable to respondent's determination that petitioner failed to report income that he received in the form of taxable distributions from pensions and nonemployee compensation, as reported to respondent by third-party payors.

On September 25, 2015, petitioner invoked the Court's jurisdiction by filing a timely petition for redetermination pursuant to section 6213(a). On November 20, 2015, respondent filed a Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted.

By Orders dated December 11, 2015, and May 6, 2016, the Court directed petitioner to file an objection, if any, to respondent's motion to dismiss. Those Orders also invited petitioner to file a proper amended petition setting forth clear and concise assignments of each and every error that he alleges to have been committed by respondent in the determination of the deficiency and additions to tax in dispute.

¹ Rule references are to the Tax Court Rules of Practice and Procedure. Section references are to sections of the Internal Revenue Code, as amended and in effect for the year in issue.

SERVED Jul 27 2016

On May 17, 2016, petitioner filed an amended petition. On May 27, 2016, respondent filed a second Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted, wherein respondent also moves to impose a penalty under IRC section 6673. On July 11, 2016, petitioner filed an Opposition to respondent's second motion to dismiss. As discussed below, we will grant respondent's second motion to dismiss and impose a penalty on petitioner pursuant to section 6673(a).

Discussion

Rule 34(b)(4) requires that a petition filed with this Court contain clear and concise assignments of each and every error that the taxpayer alleges to have been committed by the Commissioner in the determination of the deficiency and the additions to tax in dispute. Rule 34(b)(5) further requires that the petition contain clear and concise lettered statements of the facts upon which the assignments of error are based. See Jarvis v. Commissioner, 78 T.C. 646, 658 (1982).

We note that petitioner is no stranger to the Tax Court.² A review of the petition and amended petition shows that those pleadings are filled with frivolous and groundless arguments and that petitioner has failed to allege any material fact in support of any justiciable claim. Under the circumstances, we see no need to catalog petitioner's arguments and painstakingly address them. As the Court of Appeals for the Fifth Circuit has remarked: "We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit." Crain v. Commissioner, 737 F.2d 1417 (5th Cir. 1984). Suffice it to say that petitioner is a taxpayer who is obliged to file Federal income tax returns and pay Federal income tax on compensation and other forms of taxable income. See secs. 1, 61(a); United States v. Romero, 640 F.2d 1014, 1016 (9th Cir. 1981). Because the pleadings do not satisfy the requirements of Rule 34(b)(4) and (5), we will grant respondent's motion to dismiss.

Section 6673(a)(1) provides that the Tax Court may impose a penalty not to exceed \$25,000 if it appears to the Court that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in the proceeding is frivolous or groundless. The positions advanced by petitioner are

²Petitioner has previously filed petitions with the Court at docket Nos. 10386-11L, 18787-12L, 9793-13, and 20594-13.

similar if not identical to those identified by the Court as frivolous and groundless in pleadings that petitioner filed with the Court in the recent past. Under the circumstances, it is obvious that petitioner instituted this proceeding primarily for the purpose of delay.

Upon due consideration and for cause, it is

ORDERED that respondent's Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted, filed November 20, 2015, is denied as moot. It is further

ORDERED that respondent's Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted, filed May 27, 2016, is granted and this case is dismissed on the ground the petition fails to state a claim upon which relief can be granted. It is further

ORDERED AND DECIDED that for tax year 2012 petitioner is liable for a Federal income tax deficiency of \$25,886, and additions to tax under IRC sections 6651(a)(1), 6651(a)(2), and 6654 of \$5,824.35, \$3,235.75, and \$464.07, respectively. It is further

ORDERED AND DECIDED that petitioner is liable for a penalty pursuant to IRC section 6673(a)(1) of \$15,000.

**(Signed) Daniel A. Guy, Jr.
Special Trial Judge**

ENTERED: **JUL 27 2016**